Public Notice

US Army Corps of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice Number: 200075514
Date: February 12, 2001
Comments Due: March 5, 2001

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material in the Muddy Creek, as shown in the attached drawings.

APPLICANT: Mr. Michael Kennedy
Gallagher Ranch, LLC
370 Seventeenth Street, Suite 5600
Denver, CO 80202-

APPLICANT'S AGENT: Queen of the River Fish Company
13810 North 115th Street
Longmont, Colorado 80504

LOCATION: Muddy Creek, about 0.5 mile downstream of Wolford Mountain Dam and Reservoir, Grand County, Colorado, Sections 25 and 36, Township 1 North, Range 81 West.

PURPOSE: To stabilize the channel bed and banks, and enhance fish habitat in a 1.33-mile reach of Muddy Creek to develop a sustained, high quality coldwater fishery. Combined with this construction project, the applicant will also plant and transplant riparian vegetation, enhance fish stocking and employ professional fisheries management.

PROJECT DESCRIPTION: The applicant proposes to discharge 3,425 cubic yards (cy) of native material including rock, logs, and root wads from the local area and excavate 5,033 cy of dredged material. The applicant states that wetlands will not be filled or excavated for this project.

Specific objectives include:

1. Increase instream holding habitat, especially during base flow periods by increasing pool and run habitat abundance and quality;

2. Stabilize and rehabilitate eroding bank areas with native material revetments, native vegetation plantings, and sod mats;
3. Increase pool depths in meanders during base flow periods by changing cross-sectional areas and decreasing width to depth ratios;
4. Provide additional cover in pools using woody and rock structures;
5. Increase depths of run areas by decreasing width to depth ratios and installing J-hook and straight vanes; and
6. Improve visual aesthetics.

Approximately 125 structures or treatments will constructed for this project. These include groins, cross vanes, instream habitat rock, rock/root wad revetments, W-weirs, low rock weirs, J-hooks, and log/rock revetments.

During construction, the applicant expects some sediment mobilization. However, best management practices will be implemented plus the applicant expects a long term reduction of sediment load after the project is in place. Over a four-year period, after construction of the project, the applicant will monitor fisheries, macroinvertebrates, and 4 channel cross-sections; and submit reports to the Corps of Engineers.

ALTERNATIVES: The applicant provided an alternatives analysis. Alternatives to the proposed action include 1) no action; 2) intensive feeding and stocking program; and 3) stabilize in-place approach. The no action alternative would leave the channel in its current physical and biological condition. The approach would not rehabilitate the channel and would not realize the overall goal of establishing an outstanding fisheries resource. Aquatic, riparian, and wetland resources would deteriorate as bank erosion and riparian zone degradation continue. The second alternative has potential to increase fish biomass. However, this approach is costly, labor intensive, and would not produce a self-sustaining fisheries resource. This approach would fail to meet current habitat deficiencies such as lack of stream-side and instream cover, shade, channel stability, and holding water. Failure to address the deficiencies would greatly impede the success of any approach for improvement. Feeding would artificially allow increases to the fishery quality and would not be sustainable. The applicant acknowledges that alternative 3 is a common approach for fisheries enhancement and is often referred to as "patching in place." This approach, particularly for incised channels, is generally the most costly, highest risk, and least desirable in terms of habitat development, riparian and wetland functions, and aesthetics.

AREA DESCRIPTION: The Gallagher Ranch is about 8 miles north of Kremmling. The overall channel may be classified as a "C3" type (Rosgen) dominated by a cobble/gravel substrate. The valley floor gradient is 0.38%. Lands adjacent to the creek are leased and are a part of the wetlands mitigation areas for losses associated with the construction of Wolford Mountain Dam and Reservoir.

On the project site, the Muddy Creek channel has an average bankfull width at cross-overs of 56.7 feet and an average depth of 1.75 feet. Wetted perimeters during a 150 cubic feet per second (cfs) flow event occupied 83-98% of the bankfull width. Width to depth ratios exceeded 20 in most channel cross-sections, indicative of poor habitat for fish at low flows. The upper river through the applicant's property has a high entrenchment ratio and high width to depth ratios indicating that it historically

flooded outside of its banks with some frequency. The lower section of Muddy Creek is classified as an "F3" channel with a lower entrenchment ratio and high width to depth ratios indicating that the river is vertically down-cutting and flood waters rarely overtop banks.

Wolford Mountain Dam and Reservoir is upstream of this proposed project. Based on data from 1997 to the present, flows range from 18 cfs to 992 cfs with an average of 109.5 cfs during the year.

Based on channel stability evaluations, the channel stability rated poor due to steep bank slopes, mass wasting of banks, small bank rock content, channel cutting, deposition, and percentage of stable bottom substrate. Vegetative bank protection was rated as fair. Based on recent sampling, fish habitat was rated as fair. Poor scores were recorded for channel stability, bank stability, shade cover, instream cover, number of pools, and percentage of pools. Macroinvertebrate sampling indicated that Muddy Creek is in relatively poor condition. This was attributed to the construction of the dam and degradation by historical livestock practices.

ADDITIONAL INFORMATION: The applicant has requested water quality certification from the Colorado Department of Public Health and Environment, Water Quality Control Division in accordance with Section 401 of the Clean Water Act. Written comments on water quality certification should be submitted to Mr. Phil Hegeman, Planning and Standards Section, Colorado Department of Public Health and Environment, Water Quality Control Division, 4300 Cherry Creek Drive South, Denver, Colorado, 80222-1530, on or before **March 5, 2001**.

The Colorado Department of Public Health and Environment, Water Quality Control Division also reviews each project with respect to the anti-degradation provision in state regulations. For further information regarding anti-degradation provision, please contact Mr. Hegeman at the Colorado Department of Public Health and Environment, Water Quality Control Division, telephone (303) 692-3575.

The latest published version of the National Register of Historic Places and its monthly supplements have been reviewed and there are not any places either listed or recommended as eligible which would be affected. Presently unknown cultural resources may be located in the permit area.

This activity would not affect any threatened or endangered species or their critical habitat. The District Engineer has made this determination based on information provided by the applicant and on the Corps' preliminary investigation.

Interested parties are invited to submit written comments on or before **March 5, 2001**. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered

including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

For activities involving 404 discharges, a permit will be denied if the discharge does not comply with the Environmental Protection Agency's Section 404(b) (1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written comments on this permit application should be submitted to the District Engineer at the address listed above. Please furnish a copy of your written comments to the attention of Mr. Grady L. McNure, Chief, Northwestern Colorado Regulatory Office, U.S. Army Engineer District, Sacramento, 402 Rood Avenue, Room 142, Grand Junction, Colorado 81501-2563. For further information, please contact Mr. McNure at telephone number (970) 243-1199, extension 11, or email mcnure@spk.usace.army.mil.

Michael J. Walsh
Colonel, Corps of Engineers
District Engineer

Enclosures: Drawing(s)